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DEPARTMENT OF COMMERCE

International Trade Administration

(C-570-984)

Drawn Stainless Steel Sinks from the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

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SUPPLEMENTARY INFORMATION

The Petition

On March 1, 2012, the Department of Commerce ("Department") received a countervailing duty ("CVD") petition concerning imports of drawn stainless steel sinks from the People's Republic of China ("PRC") filed in proper form by Elkay Manufacturing Company ("Petitioner"). See Petition for the Imposition of Antidumping and Countervailing Duties Against Drawn Stainless Steel Sinks from the People's Republic of China, dated March 1, 2012 ("the Petition"). On March 6 and 7, 2012, the Department issued requests to Petitioner for additional information and for clarification of certain areas of the CVD Petition. Based on the Department's requests, Petitioner filed a supplement to the Petition on March 9, 2012.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (“Act”), Petitioner alleges that producers/exporters of drawn stainless steel sinks from the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in section 771(9)(C) of the Act, and has demonstrated sufficient industry support with respect to the investigation that it requests the Department to initiate (see “Determination of Industry Support for the Petition” below).

Period of Investigation

The period of investigation is January 1, 2011, through December 31, 2011.

Scope of Investigation

The products covered by the scope of this investigation are stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel (“Drawn Stainless Steel Sinks”). Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of the investigation if they are included within the sales price of the Drawn Stainless Steel Sinks.¹ For purposes of this scope definition, the term “drawn” refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. Drawn Stainless Steel Sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). Stainless steel sinks with multiple bowls that are joined

¹ Mounting clips, fasteners, seals, and sound-deadening pads are not covered by the scope of this investigation if they are not included within the sales price of the Drawn Stainless Steel Sinks, regardless of whether they are shipped with or entered with Drawn Stainless Steel Sinks.

through a welding operation to form one unit are covered by the scope of the investigation.

Drawn Stainless Steel Sinks are covered by the scope of the investigation whether or not they are sold in conjunction with non-subject accessories such as faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.

Excluded from the scope of the investigation are stainless steel sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. Stainless steel sinks with fabricated bowls may sometimes be referred to as “zero radius” or “near zero radius” sinks.

The products covered by the investigation are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under statistical reporting number 7324.10.000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the products under investigation is dispositive of its inclusion as subject merchandise.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. As a result, the “Scope of Investigation” language has been modified from the language in the Petition to reflect these clarifications. See March 15, 2012 letter from Petitioner regarding Drawn Stainless Steel Sinks from the People’s Republic of China: Petitioner’s Revision to the Proposed Scope of Investigations.

Moreover, as discussed in the preamble to the regulations (see Antidumping Duties; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period of

time for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by 5:00 p.m. DST on Tuesday, April 10, 2012, which is twenty calendar days from the signature date of this notice. All comments must be filed on the records of both the PRC antidumping duty investigation as well as the PRC CVD investigation.

Filing Requirements

All submissions to the Department must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date set by the Department. Documents excepted from the electronic submission requirements must be filed manually (i.e., in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.²

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on March 5, 2012, the Department invited representatives of the Government of the PRC ("GOC") for consultations with respect to the CVD petition. Those consultations were held on March 15, 2012. See Ex-Parte Memorandum on Consultations with Officials from the Government of the People's Republic of China on the Countervailing Duty Petition regarding Drawn Stainless Steel Sinks, dated March 19, 2012.

² See <http://www.gpo.gov/fdsys/pkg/FR-2011-07-06/pdf/2011-16352.pdf> for details of the Department's Electronic Filing Requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may

result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See USEC, Inc. v. United States, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), citing Algoma Steel Corp., Ltd. v. United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), aff'd 865 F.2d 240 (Fed. Cir. 1989), cert. denied 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that drawn stainless steel sinks constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, see “Countervailing Duty Investigation Initiation Checklist: Drawn Stainless Steel Sinks from the People’s Republic of China” (CVD Initiation Checklist) at Attachment II, dated concurrently with this notice and on file electronically via IA ACCESS. Access to IA ACCESS is available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation” section of this notice. To establish industry support, Petitioner provided its own 2011 production of the domestic like product, and compared this to the total production of the domestic like product for the entire domestic

industry. See Volume I of the Petition, at 3 and Exhibit I-1, and General Issues Supplement, at 4; see also CVD Initiation Checklist at Attachment II.

Our review of the data provided in the Petition, supplemental submission, and other information readily available to the Department indicates that Petitioner has established industry support. See CVD Initiation Checklist at Attachment II. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (e.g., polling). See section 702(c)(4)(D) of the Act; see also CVD Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. See CVD Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. See id. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. See id.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate. See id.

Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry’s injured condition is illustrated by reduced market share; underselling and price depression or suppression; decline in financial performance; lost sales and revenue; and production, capacity, capacity utilization, shipment, and employment data. See Volume I of the Petition, at 8-25 and Exhibits I-4 through I-32, and General Issues Supplement, at 4. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See CVD Initiation Checklist, at Attachment III.

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is

accompanied by information reasonably available to the petitioner(s) supporting the allegations.

The Department has examined the Petition on drawn stainless steel sinks from the PRC and finds that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of drawn stainless steel sinks in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see Initiation Checklist.

We are including in our investigation the following programs alleged in the Petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

A. Grant Programs

1. The State Key Technology Renovation Fund
2. “Famous Brands” Awards
3. Grants to Cover Legal Fees in Trade Remedy Cases
4. Special Fund for Energy Saving Technology Reform
5. The Clean Production Technology Fund
6. Grants for Listing Shares
7. Export Assistance Grants
8. Guangdong Province Science and Technology Bureau Project Fund (aka Guangdong Industry, Research, University Cooperating Fund)
9. Export Rebate for Mechanic, Electronic, and High-tech Products
10. Funds for Outward Expansion of Industries in Guangdong Province

11. Fund for Small and Medium Enterprises (“SME”) Bank-enterprise Cooperation Projects
 12. Special Fund for Fostering Stable Growth of Foreign Trade
 13. Local Government Deposits Into Bank Accounts
- B. Loans and Directed Credit
1. Policy Loans
 2. Preferential Export Financing
 3. Treasury Bond Loans or Grants
 4. Preferential Loans for State-owned Enterprises (“SOEs”)
- C. Income Tax Programs
1. “Two Free, Three Half” Program
 2. Provincial Tax Exemptions and Reductions for “Productive” Foreign Invested Enterprises (“FIEs”)
 3. Tax Reductions for FIEs Purchasing Chinese-made Equipment
 4. Tax Reductions for FIEs in Designated Geographic Locations
 5. Tax Reductions for Technology- or Knowledge-intensive FIEs
 6. Tax Reductions for FIEs that are also High or New Technology Enterprises (“HNTEs”)
 7. Tax Reductions for HNTEs Involved in Designated Projects
 8. Tax Offsets for Research and Development at FIEs
 9. Tax Credits for Domestically Owned Companies Purchasing Chinese-made Equipment
 10. Tax Reductions for Export-oriented FIEs

11. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises
 12. Tax Reduction for High-tech Industries in Guangdong Province
- D. Other Tax Programs
1. Import Tariff and Value Added Tax (“VAT”) Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
 2. VAT Rebates on FIE Purchases of Domestically Produced Equipment
 3. City Tax and Surcharge Exemptions for FIEs
 4. Exemptions from Administrative Charges for Companies in Industrial Zones
 5. Export Subsidies Characterized as “VAT Rebates”
 6. VAT and Import Duty Exemptions on Imported Material
 7. VAT Rebates on Domestically Produced Equipment
- E. Government Provision of Goods or Services For Less Than Adequate Remuneration (“LTAR”)
1. Land to SOEs
 2. Lands to Companies Located in Industrial or Other Special Economic Zones
 3. Electricity
 4. Stainless Steel Coils
- F. Subsidies to Enterprises Located in Industrial Cluster Zones
1. Exemptions from Land Development Fees
 2. Land Purchase Grants
 3. Grants to Hire Post-doctoral Workers
 4. Financial Subsidies: Interest Subsidies, Preferential Loans, and Lowered Interest Rates

5. Tax Reductions or Exemptions

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

1. Tax Exemptions and Reductions for Enterprises That Utilize Recycled Materials
2. The State Science and Technology Support Scheme
3. Provincial Loan Discount Special Fund for SMEs
4. Tax Preferences Available to Companies That Operate at a Small Profit

For further information explaining why the Department is not investigating these programs, see CVD Initiation Checklist.

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports during the period of investigation. We intend to make our decision regarding respondent selection within 20 days of publication of this Federal Register notice. The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this Federal Register notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the GOC. Because of the particularly large number of producers/exporters identified at Exhibit I-2 of the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition is filed, whether there is a reasonable indication that imports of subsidized drawn stainless steel sinks from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. See section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

Interested parties must submit applications for disclosure under protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures, 73 FR 3634. Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD or CVD proceedings initiated on or after March 14, 2011. See Certification of Factual Information for Import Administration during Antidumping and Countervailing Duty Proceedings: Interim Final Rule, 76 FR 7491 (February 10, 2011) (Interim Final Rule), amending 19 CFR 351.303(g)(1) and (2). The formats

for the revised certifications are provided at the end of the Interim Final Rule. Foreign governments and their officials may continue to submit certifications in either the format that was in use prior to the effective date of the Interim Final Rule, or in the format provided in the Interim Final Rule. See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule, 76 FR 54697 (September 2, 2011). The Department intends to reject factual information submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

____March 21, 2012_____
Date

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